

CERTIFICATION OF ENROLLMENT
SECOND SUBSTITUTE HOUSE BILL 1041

Chapter 260, Laws of 2001

57th Legislature
2001 Regular Legislative Session

UNLAWFUL HARASSMENT--CHILDREN--PROTECTION ORDERS

EFFECTIVE DATE: 7/22/01

Passed by the House April 20, 2001
Yeas 86 Nays 0

FRANK CHOPP
**Speaker of the House of
Representatives**

CLYDE BALLARD
**Speaker of the House of
Representatives**

Passed by the Senate April 20, 2001
Yeas 38 Nays 0

BRAD OWEN
President of the Senate

Approved May 11, 2001

GARY LOCKE
Governor of the State of Washington

CERTIFICATE

We, Timothy A. Martin and Cynthia Zehnder, Co-Chief Clerks of the House of Representatives of the State of Washington, do hereby certify that the attached is **SECOND SUBSTITUTE HOUSE BILL 1041** as passed by the House of Representatives and the Senate on the dates hereon set forth.

TIMOTHY A. MARTIN
Chief Clerk

CYNTHIA ZEHNDER
Chief Clerk

FILED

May 11, 2001 - 9:52 a.m.

**Secretary of State
State of Washington**

SECOND SUBSTITUTE HOUSE BILL 1041

AS AMENDED BY THE SENATE

Passed Legislature - 2001 Regular Session

State of Washington

57th Legislature

2001 Regular Session

By House Committee on Appropriations (originally sponsored by Representatives Ballasiotes, O'Brien, Lambert, Ruderman, Woods and Hurst)

READ FIRST TIME 03/8/01.

1 AN ACT Relating to protection orders for unlawful harassment;
2 amending RCW 10.14.020, 10.14.120, 10.14.170, and 7.21.030; reenacting
3 and amending RCW 10.14.040; and creating a new section.

4 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF WASHINGTON:

5 NEW SECTION. **Sec. 1.** The legislature finds that unlawful
6 harassment directed at a child by a person under the age of eighteen is
7 not acceptable and can have serious consequences. The legislature
8 further finds that some interactions between minors, such as
9 "schoolyard scuffles," though not to be condoned, may not rise to the
10 level of unlawful harassment. It is the intent of the legislature that
11 a protection order sought by the parent or guardian of a child as
12 provided for in this chapter be available only when the alleged
13 behavior of the person under the age of eighteen to be restrained rises
14 to the level set forth in chapter 10.14 RCW.

15 **Sec. 2.** RCW 10.14.020 and 1999 c 27 s 4 are each amended to read
16 as follows:

17 Unless the context clearly requires otherwise, the definitions in
18 this section apply throughout this chapter.

1 (1) "Unlawful harassment" means a knowing and willful course of
2 conduct directed at a specific person which seriously alarms, annoys,
3 harasses, or is detrimental to such person, and which serves no
4 legitimate or lawful purpose. The course of conduct shall be such as
5 would cause a reasonable person to suffer substantial emotional
6 distress, and shall actually cause substantial emotional distress to
7 the petitioner, or, when the course of conduct (~~(is contact by a person~~
8 ~~over age eighteen that))~~) would cause a reasonable parent to fear for
9 the well-being of their child.

10 (2) "Course of conduct" means a pattern of conduct composed of a
11 series of acts over a period of time, however short, evidencing a
12 continuity of purpose. "Course of conduct" includes, in addition to
13 any other form of communication, contact, or conduct, the sending of an
14 electronic communication. Constitutionally protected activity is not
15 included within the meaning of "course of conduct."

16 **Sec. 3.** RCW 10.14.040 and 1995 c 292 s 2 and 1995 c 127 s 2 are
17 each reenacted and amended to read as follows:

18 There shall exist an action known as a petition for an order for
19 protection in cases of unlawful harassment.

20 (1) A petition for relief shall allege the existence of harassment
21 and shall be accompanied by an affidavit made under oath stating the
22 specific facts and circumstances from which relief is sought.

23 (2) A petition for relief may be made regardless of whether or not
24 there is a pending lawsuit, complaint, petition, or other action
25 between the parties.

26 (3) All court clerks' offices shall make available simplified forms
27 and instructional brochures. Any assistance or information provided by
28 clerks under this section does not constitute the practice of law and
29 clerks are not responsible for incorrect information contained in a
30 petition.

31 (4) Filing fees are set in RCW 36.18.020, but no filing fee may be
32 charged for a petition filed in an existing action or under an existing
33 cause number brought under this chapter in the jurisdiction where the
34 relief is sought. Forms and instructional brochures shall be provided
35 free of charge.

36 (5) A person is not required to post a bond to obtain relief in any
37 proceeding under this section.

1 (6) The parent or guardian of a child under age eighteen may
2 petition for an order of protection to restrain a person (~~(over)~~) age
3 eighteen years or over from contact with that child upon a showing that
4 contact with the person to be enjoined is detrimental to the welfare of
5 the child.

6 (7) The parent or guardian of a child under the age of eighteen may
7 petition in superior court for an order of protection to restrain a
8 person under the age of eighteen years from contact with that child
9 only in cases where the person to be restrained has been adjudicated of
10 an offense against the child protected by the order, or is under
11 investigation or has been investigated for such an offense. In issuing
12 a protection order under this subsection, the court shall consider,
13 among the other facts of the case, the severity of the alleged offense,
14 any continuing physical danger or emotional distress to the alleged
15 victim, and the expense, difficulty, and educational disruption that
16 would be caused by a transfer of the alleged offender to another
17 school. The court may order that the person restrained in the order
18 not attend the public or approved private elementary, middle, or high
19 school attended by the person under the age of eighteen years protected
20 by the order. In the event that the court orders a transfer of the
21 restrained person to another school, the parents or legal guardians of
22 the person restrained in the order are responsible for transportation
23 and other costs associated with the change of school by the person
24 restrained in the order. The court shall send notice of the
25 restriction on attending the same school as the person protected by the
26 order to the public or approved private school the person restrained by
27 the order will attend and to the school the person protected by the
28 order attends.

29 **Sec. 4.** RCW 10.14.120 and 1989 c 373 s 14 are each amended to read
30 as follows:

31 Any willful disobedience by (~~the respondent~~) a respondent age
32 eighteen years or over of any temporary antiharassment protection order
33 or civil antiharassment protection order issued under this chapter
34 subjects the respondent to criminal penalties under this chapter. Any
35 respondent age eighteen years or over who willfully disobeys the terms
36 of any order issued under this chapter may also, in the court's
37 discretion, be found in contempt of court and subject to penalties
38 under chapter 7.21 RCW. Any respondent under the age of eighteen years

1 who willfully disobeys the terms of an order issued under this chapter
2 may, in the court's discretion, be found in contempt of court and
3 subject to the sanction specified in RCW 7.21.030(4).

4 **Sec. 5.** RCW 10.14.170 and 1987 c 280 s 17 are each amended to read
5 as follows:

6 Any respondent age eighteen years or over who willfully disobeys
7 any civil antiharassment protection order issued pursuant to this
8 chapter shall be guilty of a gross misdemeanor.

9 **Sec. 6.** RCW 7.21.030 and 1998 c 296 s 36 are each amended to read
10 as follows:

11 (1) The court may initiate a proceeding to impose a remedial
12 sanction on its own motion or on the motion of a person aggrieved by a
13 contempt of court in the proceeding to which the contempt is related.
14 Except as provided in RCW 7.21.050, the court, after notice and
15 hearing, may impose a remedial sanction authorized by this chapter.

16 (2) If the court finds that the person has failed or refused to
17 perform an act that is yet within the person's power to perform, the
18 court may find the person in contempt of court and impose one or more
19 of the following remedial sanctions:

20 (a) Imprisonment if the contempt of court is of a type defined in
21 RCW 7.21.010(1) (b) through (d). The imprisonment may extend only so
22 long as it serves a coercive purpose.

23 (b) A forfeiture not to exceed two thousand dollars for each day
24 the contempt of court continues.

25 (c) An order designed to ensure compliance with a prior order of
26 the court.

27 (d) Any other remedial sanction other than the sanctions specified
28 in (a) through (c) of this subsection if the court expressly finds that
29 those sanctions would be ineffectual to terminate a continuing contempt
30 of court.

31 (e) In cases under chapters 13.32A, 13.34, and 28A.225 RCW,
32 commitment to juvenile detention for a period of time not to exceed
33 seven days. This sanction may be imposed in addition to, or as an
34 alternative to, any other remedial sanction authorized by this chapter.
35 This remedy is specifically determined to be a remedial sanction.

36 (3) The court may, in addition to the remedial sanctions set forth
37 in subsection (2) of this section, order a person found in contempt of

1 court to pay a party for any losses suffered by the party as a result
2 of the contempt and any costs incurred in connection with the contempt
3 proceeding, including reasonable attorney's fees.

4 (4) If the court finds that a person under the age of eighteen
5 years has willfully disobeyed the terms of an order issued under
6 chapter 10.14 RCW, the court may find the person in contempt of court
7 and may, as a sole sanction for such contempt, commit the person to
8 juvenile detention for a period of time not to exceed seven days.

Passed the House April 20, 2001.

Passed the Senate April 20, 2001.

Approved by the Governor May 11, 2001.

Filed in Office of Secretary of State May 11, 2001.